

Williams, Barbara  
1535 North Pioneer Peak Drive  
Wasilla, Alaska 99564  
907-854-5367

**RECEIVED**

JUL 27 2018

**CLERK, U.S. DISTRICT COURT  
ANCHORAGE, A.K.**

IN THE UNITED STATE DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

Barbara Williams

M.

Plaintiff,

Case No. 3:18-cv-00175-RRB

vs.

SOA / DOL / Workers Compensation Division,  
Heidi Dygas, Commissioner WC ADA  
Marie Marx – Director ADA designee  
William Soule - Chief of Adjudication  
David Grashin - Hearing Officer  
Harvey Pullen - Hearing Officer  
Matthew Slodow – Hearing Officer  
Sue Reishus – O'Brein - Hearing Officer

COMPLAINT UNDER THE  
CIVIL RIGHTS ACT  
42 USC § 1983

SOA/ AG/ AG-Workers Compensation Section  
Jahana Lindemuth – Attorney General  
David Rhodes - Section WC AG  
Anna Commetta - Section WC AG

David Newman SOA / ADA Coordinator

Memoree Polley Claims Manager  
Penser North America

Defendant (s).

**A. Jurisdiction**

Jurisdiction is invoked under 28 U.S.C. § 1343 (a) 3 and 42 U.S.C. § 1983.

**B. Parties**

1. Plaintiff:

This complaint alleges that the civil rights of Barbara Williams, Next of Friend for Mary Marple, who presently resides at 1535 North Pioneer Peak Drive, Wasilla, Alaska 99654 were violated by the actions of the individuals named below.

2. Defendants:

1. SOA / DOL / Workers Compensation Division  
Heidi Dygas, Commissioner WC , ADA Designee  
P.O. Box 111149  
Juneau, Alaska, 99811  
[Commissioner.labor.alaska.gov](mailto:Commissioner.labor.alaska.gov)

Heidi Drygas is a citizen of Alaska and is employed as a Commissioner of Labor. This defendant personally participated in causing my injury, and I want:

The policy or the custom of this official government agency violates my rights and I seek injunctive relief

2. Marie Marx – Director  
Alaska Workers Compensation Board  
P.O. Box 115512  
Juneau, Alaska 99811

Marie Marx is a citizen of Alaska and is employed as a Director of the Workers Compensation Division. This defendant personally participated in causing my injury, and I want:

The policy or the custom of this official government agency violates my rights and I seek injunctive relief

3. William Soule - Chief of Adjudication  
Alaska Workers Compensation Division  
3301 Eagle Street, # 304  
Anchorage, Alaska 99502

William Soule is a citizen of Alaska and is employed as a Chief of Adjudication and Hearing Officer. This defendant personally participated in causing my injury, and I want:

The policy or the custom of this official government agency violates my rights and I seek injunctive relief

4. David Grashin - Hearing Officer

Alaska Workers Compensation Division  
3301 Eagle Street, # 304  
Anchorage, Alaska 99502

David Grashin is a citizen of Alaska and is employed as a Hearing Officer. This defendant personally participated in causing my injury, and I want:

The policy or the custom of this official government agency violates my rights and I seek injunctive relief

5. Harvey Pullen - Hearing Officer  
Alaska Workers Compensation Division  
3301 Eagle Street, # 304  
Anchorage, Alaska 99502

Harvey Pullen is a citizen of Alaska and is employed as a Hearing Officer. This defendant personally participated in causing my injury, and I want:

The policy or the custom of this official government agency violates my rights and I seek injunctive relief

6. Matthew Slodow  
Alaska Workers Compensation Division  
3301 Eagle Street, # 304  
Anchorage, Alaska 99502

Matthew Slodow is a citizen of Alaska and is employed as a Hearing Officer. This defendant personally participated in causing my injury, and I want:

The policy or the custom of this official government agency violates my rights and I seek injunctive relief

7. Sue Reishus – O'Brein - Hearing Officer  
Alaska Workers Compensation Board  
P.O. Box 115512  
Juneau, Alaska 99811

Sue Reishus O'Brein is a citizen of Alaska and is employed as a Hearing Officer. This defendant personally participated in causing my injury, and I want:

The policy or the custom of this official government agency violates my rights and I seek injunctive relief

8. Jahna Lindemuth – Commissioner, Attorney General

1031 West 4<sup>th</sup> Avenue # 200  
Anchorage, Alaska 99501

Jahna Lindemuth is a citizen of Alaska and is employed as a Commissioner and Head Attorney General. This defendant personally participated in causing my injury, and I want:

The policy or the custom of this official government agency violates my rights and I seek injunctive relief

9. SOA/ AG/-Workers Compensation Section  
David Rhodes - Section WC AG  
1031 West 4<sup>th</sup> , Avenue # 200  
Anchorage, Alaska 99501

David Rhodes is a citizen of Alaska and is employed as a WC Attorney General. This defendant personally participated in causing my injury, and I want:

The policy or the custom of this official government agency violates my rights and I seek injunctive relief

10. Anna Commetta – AG Workers Compensation Section  
1031 West 4<sup>th</sup> , Avenue # 200  
Anchorage, Alaska 99501

Anna Commetta is a citizen of Alaska and is employed as WC Attorney General. This defendant personally participated in causing my injury, and I want:

The policy or the custom of this official government agency violates my rights and I seek injunctive relief

11. David Newman  
550 West 7<sup>th</sup>, Suite 1960  
Anchorage, Alaska 99501  
907-375-7716  
[David.Newman@alaska.gov](mailto:David.Newman@alaska.gov)

David Newman is a citizen of Alaska and is employed as an attorney and Statewide ADA Coordinator. This defendant personally participated in causing my injury, and I want:

The policy or the custom of this official government agency violates my rights and I seek injunctive relief



7. Memoree Polley Claims Manager  
Penser North America  
700 Sleater-Kinney Road S.E.  
Lacey Washington 98503

Memoree Polleys is a citizen of Alaska and is employed as an attorney and Statewide ADA Coordinator. This defendant personally participated in causing my injury, and I want:

The policy or the custom of this official government agency contractor violates my rights and I seek injunctive relief

### **C. CAUSE OF ACTION**

#### **Claim 1:**

On or about starting January 2015 thru continuing my civil rights to due process

Was violated by: one or all the defendants

Supporting Facts: Briefly describe the facts that you think are important to claim # 1 State what happened briefly and clearly in your own words. Do not cite legal authority or argument Describe what each defendant, by name, did to violate the right alleged in claim # 1

From January 1, 2015 thru continuing our civil rights to due process have been violated. The Alaska Department of Labor specifically the Alaska Workers Compensation Division have not followed their own laws, federal code and specifically 42 USC in regard to accommodating people with disabilities. Ms. Williams and Ms. Marple were forced to perform litigation like practices to request accommodation, and were denied discovery, subpoenas, record corrections, access to the file, witness statements and accommodations.

Ms. Williams and Ms. Marple due process was violated by the deviating from the standard of the laws and regulations designed to protect all the parties. The Division and staff have not followed the law or acted in a professional capacity. Ms. Williams and Ms. Marple have been disparaged, harassed, and retaliated against because they have engaged in an interactive process to do reasonable claims handling, follow the law and assert her rights for accommodation under the Americans with Disabilities Act. The state process is supposed to provide forms and information to parties that are not attorneys can do reasonable claims handling. It does not address the complex litigation steps that workers and non-attorney advocates have to navigate to receive necessary medical benefits they are entitled to and receive the accommodations for their disabilities seen and unseen. She should have the same legal access as other parties ( ie state, and employer, self-insured adjuster).. There is no dispute or grievance process that address this or the

accommodations needed to participate in the litigation process for persons with qualified disabilities. Discovery has been disregarded at will, the policy and civil procedures have been disregarded. They are also supposed to provide accommodation for persons with disabilities. There is a disparagement / conflict between the State Agency, the state as an employer, the state as self-insured and state's legal counsel. There is legal abuse of process because the employee who has far less resource and education as well as experiences disabilities that preclude her from participating in many daily living activities. There is an ineffective interactive web process that does nothing to provide information for persons that must seek accommodation to access the services or simply seek information. There is no oversight, unlimited resources, and utilization of largest legal firm (the Attorney General) that defends the State of Alaska. The State as the employer, their self-insurance program and defense team, are often unleashed against injured workers who often have no or limited representation. There is shortage of legal assistance to injured workers generally and workers cannot even seek legal counsel until their claims are denied. Unlike the employer who hires the state's largest law firm that gives them unlimited resources from the inception of the claim. Injured workers only have access to some twenty five or less attorneys for more than 20 thousand claims per year. This is a disparagement to injured workers who often cannot get representation and seek to follow the law as well as defend their claims and even get the necessary accommodation to participate in the process.

Ms. Marple was forced to participate in necessary, unfair litigation that did nothing to address the accommodation or the merit of her claims. The Alaska Workers Compensation Board believes that they are exempt from following the law and the ADA.

## **Claim 2:**

On or about January 2016 thru continuing my civil rights to HIPPA privacy 42 USC has been violated.

Was violated by: one or all the defendants

The defendants have not had a proper release of any kind to release, but have been engaging in scheduled medical appointments, discuss, possess, share or otherwise handle the medical records for Mary Marple since 2015. It was specifically brought to their attention in 2015 when the medical evaluation process began. The Division has not ensured that a proper release is contained in the file and this has been brought to their attention numerous times.

Director Marx has mishandled the confidential request for accommodation by placing in an unsecure location. She has only secured the location after request were made and no confirmation that all confidential request have not been secured. Ms. Williams and Ms. Marple made a confidential request for accommodation as well as protection request for medical records.

Ms. Marple had other medical conditions that would have been protected under the release of information that would not have the same disclosure restrictions as that of workers compensation. The Division and staff plainly mishandled Ms. Marple's confidential medical violated the HIPPA standard.



**Claim 3:**

On or about January 2015 thru continuing my civil rights to Accommodation under 42 USC Americans with Disability Act.

*Due process, freedom of religion free speech, freedom of association and or assembly freedom from cruel and unusual punishment. List only one violation*

Was violated by: one or all the defendants

Supporting Facts:

The Alaska Department of Labor, Division of Workers Compensation does not have an adequate program to provide reasonable accommodation for persons with disability. There are no forms to request accommodation, no notice of services available to disabled individuals or the public. There is no way for persons with seen and or unseen disabilities to receive adequate accommodation or enforcement of accommodation when required parties have inadequate training and there is no real coordination or oversight of services. There is no public access to files and information and the division no longer allows one to visit the clerk's office and view their files. (ie lack of access to electronic and other files necessary to file evidence, and or other records.)

The plaintiff and her advocate was forced to pay for her own accommodation costs for transportation. Marple's physician's restrictions were not followed. Ms. Marple had to settle for essentially no accommodation due to the lack of communication by the ADA coordinator with the parties. Ms. Marple was prohibited from contacting medical evaluators to convey her own restrictions.

The Attorney General (Rhodes and Cometa) in addition to staff and hearings officers have acted in an unprofessional and abusive manner to Ms. Marple and Ms. Williams.

Ms. Marple was forced to accept goods and or services that were not adequate to accommodate her disabilities. Williams had to cover travel expenses and these actions are expressly prohibited by federal law.

**Claim 4:**

On or about January 2015 thru continuing my civil rights against Cruel and Unusual Punishment have not been protected.

Was violated by: all the defendants listed above.

Supporting Facts:

The Alaska Workers Compensation Board Division and staff have engaged in cruel and unusual conduct towards people with disabilities as well as harass the advocates that seek to assist them. During the examination process, Ms. Marple was subject to some unusual procedures to provide accommodation and arrange for travel. She was harassed while she prepared for the process. There were two evaluations scheduled. Marple was not allowed to participate in the second evaluation. The AWCB and employer retaliated by not letting Marple personally participate in the second evaluation. Neither the AWCB nor the employer ensured all travel cost and accommodations were made in advance of the evaluation that she waited over two years to receive. She was only allowed to participate in one evaluation and there was no accommodation made for her before, during or after that examination.

**Previous Lawsuits**

1. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action, or otherwise relating to your imprisonment? ☐ Yes  
☒ No

**F. Request for Relief**

Plaintiff request that this court grant the following relief:

1. Damages in the amount of: \$40.00 transportation costs.
2. Punitive Damages in the amount of \$ the court deems fit for the situation.
3. An order requiring the defendants to:  
Directing the Alaska Workers Compensation / Department of Labor develop a working ada accommodation process with oversite and training for all staff coordinators, judicial personnel and general office staff. Follow the Rules for Civil Procedure and adhere to the Rules of Professional Conduct. Provide the same legal access to injured workers. An apology and new trial to participate and present her claims after a chance to do reasonable discovery.  

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4. A decision that:  

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5. Other: ☐ An Injunctive order to the Alaska Workers Compensation Board to make reasonable accommodation and provide a working interactive program for persons with



disabilities seeking access to government and public programs. To stop all procedures in the case until such time the Federal court can decide the issue of accommodation. This needs to be determined because it is a key factor in what has happened in this case. To stop all procedures in this case until the board has an opportunity to verse themselves in the ADA, ada and sensitivity training, and a review of professional conduct of the attorneys and staff. Direct electronic case access to files related to the claims.

### **DECLARATON UNDER PENALTY OF PERJURY**

The undersigned declares under penalty of perjury that he / she is the plaintiff in the above action that he / she read the above civil rights complaint and that the information contained in the complaint is true and correct.

Executed at Anch ak on 27 July 18

Barbara Wu

Plaintiff Signature